

INVESTIGATION RESULTS

Question 4: The Appointments of Jovetta Whitfield and Gail Perry as Interim Directors of the DSS Board.

The DSS Board acted within its statutory limits in selecting and appointing Ms. Whitfield as interim director. The DSS Board in making its selection acted in accordance with merit rules of the State Personnel Commission. Those rules address the qualifications, etc. that directors must possess. Both Ms. Whitfield and Ms. Perry meet the qualification criteria established in the merit rules; however the selection and appointment of Ms. Perry as interim director is under review and the results will be disclosed under a separate reporting process.

Question 5: The Salaries of Jovetta Whitfield and Gail Perry

According to NC State Statute 108A – 13, the DSS Board, with approval of the BOCC, determines the salary of DSS directors. Ms. Whitfield's salary as well as the salary of Ms. Perry is awaiting approval by the BOCC. The BOCC is authorized to approve any salary recommended by the board as long as it falls within the classification established and approved for the position.

Ms. Perry works under a letter agreement between herself and the DSS Board which points out she is a temporary employee. Under County policy, leave and benefits are not granted to temporary employees. Ms. Perry received benefits...she was paid for several holidays for which she is not entitled under the temporary appointment policy. The County has made provisions to recoup the erroneous payments.

Question 6: The Relationships between Gerri Robinson and Gladys Dunston and Gerri Robinson and Carolyn Carver-Tan.

The framer of this question believes if a prior relationship existed between Ms. Gerri Robinson and Ms. Dunston, such information should have been disclosed to the DSS Board. Neither Ms. Robinson nor Ms. Dunston provided responses to this question. Ms. Robinson did not return phone calls and Ms. Dunston did not desire to participate in the investigation. Therefore, it could not be determined if a prior relationship between the two existed because reliable information was unavailable.

Ms. Carver-Tan said she has known Ms. Robinson for a number of years through professional associations and events. She emphasized that both of them are social workers with advanced degrees. Ms. Carver-Tan further stated that she was not on the DSS Board during the recruitment process; therefore, she did not have anything to do with Ms. Robinson getting the job. She said she learned of it through the local newspaper. She also said she didn't have anything to do with firing Ms. Robinson and didn't have any knowledge about why she was fired.

Question 7: A Letter Written By Gerri Robinson Seeking Additional Funding To Hire an Outside Attorney.

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The question was in regards to a letter written by Gerri Robinson seeking additional funding to for the purpose of hiring an outside attorney. I was unable to locate such a letter and there is conflicting testimony as to the existence of such a letter. However, there were discussions between DSS, the Finance Department, and the County Attorney about hiring an outside attorney to represent a family in a custody action.

People familiar with the circumstances said foster parents of a foster child were incurring legal costs because a member of the child's family wanted to obtain the foster parent's medical records. The DSS, desiring to assist the foster parents to defray legal costs, inquired of the County's Finance Director and Attorney about the potential for such assistance. The Finance Director advised against the proposal and DSS did not expend funds for an attorney.

Question 8: Allegations Gail Perry Misused Coupons While Previously Employed at DSS

There were distant memories regarding Ms. Perry's practices while serving as Assistant Director at DSS at a time estimated to be circa 1999 and 2000. According to the former County Attorney, who emphasized that the events took place about ten years ago, the issue was not about coupons but about using County funds to purchase and distribute gift cards.

Ms. Perry, by her admission, used County funds to purchase gift cards to reward employees for excellent performance. She also said she purchased other small gifts and tokens for that purpose or to celebrate achievement of favorable work results. The money used to purchase the cards were funds set aside for each Assistant Director for training and meetings. The practice was to buy the item(s) and seek reimbursement from the County. Ms. Perry or others could not remember the amount of the annual set-aside. Ms. Perry also gave away coupons provided by "Chick-fil-A" as rewards. The coupons were provided at no cost to the County and are not an issue because they were free and of nominal value.

Gift cards constitute compensation because the values of the cards are cash equivalents or money. As such, the compensation was taxable; however, the process was not such that taxes were withheld. Thus, the County was liable for consequences of not withholding and paying payroll taxes. However, the former director said Ms. Perry was the only Assistant Director that used these funds in that manner. The former County Attorney said he didn't know how or if the issue was resolved.

Question 9 and 16: (9) Statements made by public officials about anyone (16) Whoever does this investigation should have an interview with all commissioners regarding their issues leading to the fiasco.

The Commissioner that framed these questions is concerned about the harm done as a result of the DSS Board firing Ms. Robinson, the former DSS Director. According to the statement, the Commissioner believes the continued unwarranted efforts of one person are responsible for the community outrage that has occurred as a result of the DSS Board's action. The BOCC has suffered from a lessening degree of community trust and divisions have been created on both the DSS Board and the BOCC. Angry words attacking the credibility of elected officials have been spoken in the news media, adding to the public's disdain for elected officials. The Commissioner believes the BOCC has a responsibility to be transparent, uphold ethical

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principles, raise questions, and address all issues resulting from this and other incidents regardless of the public outrage and backlash.

A second Commissioner said there were reasons for firing Ms. Robinson that some Commissioners were not aware of. The Commissioner said he was concerned about his oversight responsibilities and did not believe he could fulfill them appropriately with the Ms. Robinson serving as director. He said he is unable to communicate his concerns to other BOCC members because one will not take or return his calls. The Commissioner provided specific examples of what he considered performance issues, however, because of personnel confidentiality rules, the examples are not cited in this report. The Commissioner also said he and Stan Holt, the current DSS board chair did not agree with other members regarding performance review results.

Question 10: Performance Evaluation of Gerri Robinson and the Process by Which It Was Subsequently Amended.

Evidence provided by HR confirmed that Ms. Robinson's evaluation was amended. However, evidence is not available in the files to determine why the evaluation was amended and which members of the DSS Board were in favor of the amendment.

The DSS Board conducted its first full-year evaluation of Ms. Robinson's performance on April 24, 2011, approximately twenty months after she began work for the County. The Board used its "Board Governance Policies (August 18, 2010) to conduct the evaluation, according to its letter to HR regarding the process.

In an undated "performance summary," Ms. Robinson provided the board with her "Self Appraisal." In a June 13, 2011 memorandum to HR, the board stated it was requesting that one item of concern be amended as a result of a closed session on May 12, 2011, to reconsider the appraisal.

Closed session minutes are not available for review. Because they are unavailable, I could not determine what factors were included to make the decision to amend the evaluation. Mrs. Dunston, who was DSS Board Chair at the time, was not available for comment.

Questions 11 and 17 (11) Any correspondence between Gerri Robinson and BOCC members prior to Ms. Robinson's employment. (17) Was there a relationship between Robinson and any commissioner prior to her hire? Did Robinson contact any of the commissioners before being hired (oral or written) and the nature of those contacts? Did any DSS Board Member contact any commissioner prior to Robinson being hired seeking support for Robinson?

All commissioners responded to the question. In each case they said they (1) did not correspond with Mrs. Robinson prior to her employment, (2) did not have a relationship with Ms. Robinson prior to her hire, and (3) were not contacted by Ms. Robinson before she was hired and (4) were not contacted by a DSS board member on behalf of Ms. Robinson before she was hired.

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Question 12: Questions about Apparent Social Services Board Special Meetings during Which closed Sessions Were Used To Discuss Personnel Issues, and whether those Sessions were About the Director's Performance

After Ms. Robinson was hired on September 24, 2009, the DSS Board met six times in executive or closed session between April 21, 2010, and July 27, 2011. Of those meetings, four of them were cited as closed sessions pursuant to G.S. 143-318.11(a) (6). G.S. 143-318.11(a) (6), the statute that allow discussion of performance. A citation was not provided for two meetings that were referred to as either executive or closed sessions. Stan Holt, the current DSS Chair, said he recalled that about five sessions were held to discuss the director's performance.

Questions 13 and 22: (13) Letter From Montina Swift, Especially The Allegations Raised As To The Compensation Paid To Kathryn Simmons. (22) That all allegations raised in all letters Commissioner Bowser has received about Ms. Robinson be investigated. Commissioner Bowser will produce those letters as requested. (Auditor's note: Catherine Simmons is the correct name for the person referred to above.)

Ms. Swift's letters appeared to accuse the former director of filling vacancies based upon factors other than merit. As a result of that interpretation I was asked to review three specific allegations in her letter that were believed to communicate (1) an employee was promoted to a "supervisory lead" position because of her relationship to a DSS Board member, (2) a person was hired into a position when more experienced employees could have been promoted into the position, and (3) Ms. Robinson held positions open when she could not fill them with the person she wanted in the position.

For the first two complaints, evidence did not support that those selected for the positions were not qualified or that they got their positions solely because they "knew" someone. I reviewed the documents associated with the competition for both positions and did not find any deviations from the normal process. According to the letter writer and the current director, both employees are well qualified and are excellent employees. The letter writer said her intention was not to suggest they were not good selections.

For the complaint regarding "held positions" I interviewed the letter writer to better understand what information was available to her to support her position. According to the letter writer, the complaint was based upon her attempt to fill a position under her purview. She said the position was vacant for almost six months and she was told that Ms. Robinson had a person in mind for the position that was not qualified. According to the letter writer, Ms. Robinson wanted to reduce the level of the position to accommodate the person she wanted in the position. The letter writer reported, however, this potential action had been discussed prior to Ms. Robinson considering it. The letter writer said the period in which the position was vacant caused her workload to increase.

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The letter writer said her intention in writing the letter was to support Commissioner Bowser. She said she read newspaper articles stating he tried to get assistance in helping people get jobs with the County. She said she didn't see anything wrong with that activity because recommendations are often made by friends, co-workers, and the like. She said she didn't see why Commissioner Bowser couldn't do likewise. The letter writer said her position was to point out that such is the way when it comes to finding jobs and getting promotions and not to criticize the process.

The letter from Ms. Swift and another letter by Sharon Hirsch questioned the pay received by Catherine Simmons. Ms. Simmons, a former DSS employee, was referred to by some as a "personal assistant" to Mrs. Robinson. HR determined that Ms. Simmons role under the terms of her consultant contract did not fit the description of personal assistant but was similar to a DSS' Staff Development Specialist II job description with similarities to Human Services Program Evaluator II position. Ms. Simmons' classification upon retirement was Staff Development Specialist I.

Ms. Simmons' contract included a scope of work that was quite extensive and appeared reasonable for a business operation. The scope of work terms were;

- Carry out research and data collection,
- Conduct analysis,
- Interview Departments' employees, management team and other stakeholders,
- Run focus groups and facilitate workshops,
- Prepare business proposal/presentations,
- Identify issues and form hypotheses,
- Formulate and implement recommendations and solutions,
- Ensure Department receives the assistance needed to implement such recommendations and solutions,
- Manage projects and programs,
- Lead and manage those within the team, including analysts, and
- Provide leadership in the management of client relationships.

Ms. Simmons compensation was reviewed to determine (1) if the pay she received under her contract was compatible with her duties as stated in the contract's Scope of Work and (2) if the compensation was unreasonable in light of what her salary was with the DSS.

As a County employee, Ms. Simmons earned approximately \$53, 132 in salary and \$11,361 in benefits for a total of compensation or County expenditure of \$64, 493. When calculated as an hourly rate, her compensation was \$33 per hour.¹ Compensation under her contract was approximately \$56² per hour or \$23 more per hour than she earned as a County employee. Without further information, it appears the salary was excessive when compared with the duties of the job.

¹ Hourly compensation computation= 37.5 hours per week X 52 weeks = 1950 hrs. \$64,493 salary/1950 hrs. = \$33 per hour.

² Information provided by DSS Assistant Director.

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Sharon Hirsch indicated that many employees left DSS because of Ms. Robinson. She named some of them. I randomly chose a retiree, referred to as a key employee by Ms. Hirsch, to interview regarding her reason for retiring when she did. The retiree told me Ms. Robinson was not a factor in why she retired...she had been planning to retire for several years. She said she did not have any contact with Ms. Robinson other than occasionally meeting her in the hallway.

Ms. Hirsch's letter contained many allegations. It often spoke on behalf of others regarding their feelings. Such statements are difficult to substantiate and are more appropriately dealt with by Human Services resources at the time they arise. However, one allegation in the letter, "money is being spent on consultants without monitoring" is the subject of an audit requested by the DSS Board and will be investigated during that audit engagement.

Question 14: Was There Any Discussion Of Client/Customer Cases By Anyone Outside Of Those Working On The Case And/or Their Significant Relatives Or Others Involved In The Case? How Was An Outsider Who Was Not Even On The Board When She Was Allegedly Given Information About Cases Able To Have Discussions About Client Cases As Well As Others In The Community Who Complained About The Board's Hiring Or Lack Of In Reference To One High Profile Durham County Case?

This question arose because two private citizens, Victoria Peterson and Jackie Wagstaff, made statements regarding a DSS case in which it appeared their information exceeded what was available to private citizens without inappropriate access to information. I discussed the question with Ms. Peterson and Ms. Wagstaff.

Ms. Peterson said she and Ms. Wagstaff, as community activists, were concerned about the mother in a custody case. She said she knew the mother and many of the circumstances of the case from being involved with the mother. Other information was obtained by research of court records and newspaper accounts. She said she also met with the case manager in the case but wasn't provided with nonpublic information. She said she also met with the DSS Director but was not given any information from that source either. Ms. Wagstaff provided similar information, with the addition that another person, the woman with custody of the children, had power of attorney to advocate on behalf of the mother. The women spoke at a BOCC meeting to voice their displeasure at DSS.

I asked both Ms. Peterson and Ms. Wagstaff if they had obtained information from any DSS employee or other County employee or official regarding the case. Both responded they had not.

Question 15 and 23: (15) What Were the Reasons for All Employees Leaving the Agency? This Should Include All Upper Management And Line Personnel. (23) The Reasons for So Many High Level Employees Leaving During Ms. Robinson's Tenure.

DSS' approved budget was 486 FTEs when Ms. Robinson's began her term as director in September 2009. 431 of those FTEs were filled. When Ms. Robinson left the department in July 2011, her approved budget was 475.45 FTEs. 429 of those FTEs were filled. The

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percentage of filled positions relative to the budget was higher at the time she left than when she was hired; approximately 89% versus 91%.

During Ms. Robinson's 22 month tenure, 87 employees left the agency. The table below gives the circumstances under which they left.

Exhibit 1: Reasons for Leaving Department

Reason for leaving	All employees	High level employees³
Retirement	18	3
Resignation	54	5
Termination	14	1
Death	1	0
Totals	87	9

Source: Richard Edwards, Auditor, from information provided by DSS and County HR.

To put this information into perspective we reviewed available information for Sammy Haithcock and Dan Hudgins, two directors immediately prior to Ms. Robinson. When comparing overall separations for Robinson, Haithcock, and Hudgins per month of tenure, Robinson had 3.9 separations per month compared to 4.4 for Haithcock and 6.8 for Hudgins. Resignations and dismissals follow a similar trend. Robinson's tenure resulted in .8 retirements per month while Haithcock and Hudgin's tenure resulted in .1 and .3 retirements per month respectively. In comparing the last 24 months of Haithcock's tenure to Robinson's 22 months of tenure, Haithcock had 11 total separations of senior employees compared to nine for Robinson.

We reviewed recent exit interviews to obtain additional information regarding why employees left the agency. Our method was to identify and enumerate comments specifically addressing dissatisfaction with Mrs. Robinson or the leadership during the time in which she was director. Because the situation surrounding exit comments cannot be confirmed, we can only provide information regarding the numbers of people who reported they were dissatisfied. In the case of Ms. Robinson, two individuals left voluntarily and voiced dissatisfaction with her leadership. Of these two, one was a high level employee.

Question 16: Addressed in conjunction with question 9

Question 17 Addressed in conjunction with question 11

³ High level or key employees were defined by the current interim director as (1) assistant directors, (2) supervisors, (3) program coordinators, (4) managers, and (5) business officers.

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Question 18: Did Human Resources Do A Fair And Impartial Background Check On The Original Final Candidate That All The DSS Board Members Supported Except Gladys Dunston? Did Gladys Dunston Persuade Human Resources To Do A Second Background Check On This Person After Human Resources Gave The DSS Board The Okay After The Initial Background Check? Did Gladys Do This To Keep Robinson In Contention?

Review of the process to check applicant backgrounds did not lead to evidence that the process was flawed or biased. Nor was there evidence that Ms. Dunston influenced HR in any manner including requesting a second background check.

During this candidate selection process, HR completed background checks on candidates for which the DSS Board directed; in this case the two finalists Mr. Woodard, referred to in the question as the original finalist, and Ms. Robinson, the eventual appointee. Both provided a list of references and the supervisors for the positions listed on their applications. HR representatives made phone calls to these listed persons, recorded the conversations, and presented the information to the DSS Board orally on June 16, 2009.

I reviewed the body of emails between HR and Ms. Dunston and other Board members to determine if I could identify requests or coercion by DSS Board members and especially Mrs. Dunston in the HR process. There were no emails between Ms. Dunston and HR that sought additional procedures for Mr. Woodard.

Question 19: What were the results of the 6-month review of Ms. Robinson by the DSS Board? Was there a move to terminate her employment at that time; if so for what reason/s?

Performance evaluation results are privileged and cannot be disclosed in this report.

Question 20: Was Ms. Robinson Doing Consulting Work For Civitas Of NC While Serving As Our DSS Director? If Yes To The Previous Question, Did She Get Permission From Her Supervisors To Do This Work As Per County Policy?

Ms. Robinson was never a consultant or otherwise employed by Civitas, according to Civitas' human resource representative. Ms. Robinson was not available to respond to this question.

Question 21: How Many Assistant Directors, Manager And Supervisory Positions Were Vacant At The Time Of Ms. Robinson's Hire And At The Time Of Her Termination?

The vacancy report for September 28, 2009, four days after Ms. Robinson began work listed three key vacancies. The vacancies included a social work supervisor, a processing unit supervisor, and a facilities maintenance coordinator. On July 31, 2011, four days after Ms. Robinson was dismissed, six key positions were vacant. Of those,

- three were for supervisor positions,
- one was a manager position,

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- one was a business officer position, and
- one was for the facilities maintenance coordinator position.

Question 22: Addressed in conjunction with question 13

Question 23: Addressed in conjunction with question 15

Question 24: Has Any County Commissioner Asked A Department Head To Consider Hiring A Specific Person For A Job In Durham County Government?

The initiator of this question was interested in two departments in which it had been rumored that a County Commissioner asked the department head to consider hiring a specific person for a job in Durham County Government. During discussions to gather information on this question, two more departments were included based upon statements from County employees. Three of the department heads were asked about the issue. Ms. Robinson the fourth department head was terminated and was not available to comment.

It is common practice to pass along resumes and tips regarding job positions and potential employees. Because it is common, we looked at factors that would make the practice inappropriate. Based upon discussions with the involved department heads we determined that the practice was inappropriate when the department head felt pressured to consider or hire the person.

Of the three department heads, two stated that a Commissioner has asked them to consider a specific person for a position. One said uncomfortable feelings arose at the time and still linger; however, the department head has no knowledge of any negative effects as a consequence. The second department head did not report any feelings of pressure. The third department head said there has never been a direct approach by a Commissioner to consider anyone for a position.

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Appendix 1: Questions

QUESTIONS FOR DSS INVESTIGATION

1. The appointment of Gail Perry to the DSS Board.
2. Accusations of an illegal meeting between Joe Bowser, Stan Holt and Gail Perry.
3. Whether Gail Perry had a conflict of interest in voting to terminate Gerri Robinson if she knew she could benefit personally from the decision?
4. The appointments of Jovetta Whitfield and Gail Perry as interim directors of the DSS Board.
5. The salaries of Jovetta Whitfield and Gail Perry.
6. The relationships between Gerri Robinson and Gladys Dunston and Gerri Robinson and Carolyn Carver-Tan.
7. A letter written by Gerri Robinson seeking additional funding to hire an outside attorney.
8. Allegations Gail Perry misused coupons while previously employed at DSS.
9. Statements made by public officials about anyone.
10. Performance evaluation of Gerri Robinson and the process by which it was subsequently amended.
11. Any correspondence between Gerri Robinson and BOCC members prior to Ms. Robinson's employment.
12. Questions about apparent Social Services Board special meetings during which closed sessions were used to discuss personnel issues, and whether those sessions were about the director's performance (Commissioner Reckhow)
13. Letter from Montina Swift, especially the allegations raised as to the compensation paid to Kathryn Simmons. (*letter attached*) (Commissioner Bowser)
14. Was there any discussion of client/customer cases by anyone outside of those working on the case and/or their significant relatives or others involved in the case? How was an outsider who was not even on the board when she was allegedly given information about cases able to have discussions about client cases as well as others in the community who complained about the board's hiring or lack of in reference to one high profile Durham County case? (Commissioner Page)
15. What were the reasons for all employees leaving the agency? This should include all upper management and line personnel. (Commissioner Page)
16. Whoever does this investigation should have an interview with all commissioners regarding their issues leading to this fiasco. (Commissioner Page)
17. Was there a relationship between Robinson and any commissioner prior to her hire? Did Robinson contact any of the commissioners before being hired (oral or written) and the nature of those contacts? Did any DSS Board Member contact any commissioner prior to Robinson being hired seeking support for Robinson? (Commissioner Bowser)
18. Did Human Resources do a fair and impartial background check on the original final candidate that all the DSS Board Members supported except Gladys Dunston? Did Gladys Dunston persuade Human Resources to do a second background check on this person after Human Resources gave the DSS Board the okay after the initial background check? Did Gladys do this to keep Robinson in contention? (Commissioner Bowser)
19. What were the results of the 6-month review of Ms. Robinson by the DSS Board? Was there a move to terminate her employment at that time; if so for what reason/s? (Commissioner Bowser)

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20. Was Ms. Robinson doing consulting work for Civitas of NC while serving as our DSS Director? If yes to the previous question, did she get permission from her supervisors to do this work as per County policy? (Commissioner Bowser)
21. How many Assistant Directors, Manager and Supervisory position were vacant at the time of Ms. Robinson's hire and at the time of her termination? (Commissioner Bowser)
22. That all allegations raised in all letters Commissioner Bowser has received about Ms. Robinson be investigated. Commissioner Bowser will produce those letters as requested. (Commissioner Bowser)
23. The reasons for so many high level employees leaving during Ms. Robinson's tenure. (Commissioner Reckhow)
24. Has any County Commissioner asked a department head to consider hiring a specific person for a job in Durham County Government? (Commissioner Page)